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CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

SVETLANA VLADIMIROVNA
AKINSHINA et al.,

Petitioners

v.

ALBERTO R. GONZALES, Attorney
General,

Respondent

No. 04-71777

Agency Nos. A79-282-078
A79-282-079

MEMORANDUM^{*}

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted November 18, 2005^{**}
Portland, Oregon

Before: GRABER and RAWLINSON, Circuit Judges, and OTERO^{***}, District
Judge.

^{*} This disposition is not appropriate for publication and may not be
cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} This panel unanimously finds this case suitable for decision without
oral argument. Fed. R. App. P. 34(a)(2).

^{***} The Honorable S. James Otero, United States District Judge for the
District of Central California, sitting by designation.

Petitioner Svetlana Vladimirovna Akinshina and her minor son¹ appeal the denial of their application for asylum and withholding of removal issued by an immigration judge (IJ) and the Board of Immigration Appeals (BIA). Where, as here, the BIA issues a separate decision, the court reviews the BIA's decision and those portions of the IJ's decision expressly adopted by the BIA. *Molina-Estrada v. INS*, 293 F.3d 1089, 1093 (9th Cir. 2002). Legal determinations are reviewed *de novo*, *Agyeman v. INS*, 296 F.3d 871, 876 (9th Cir. 2002), while findings of fact are reviewed for substantial evidence, *Guo v. Ashcroft*, 361 F.3d 1194, 1203 (9th Cir. 2004).

1. Petitioner cannot show that substantial evidence compels the conclusion that she suffered past persecution or has a well-founded fear of persecution on account of her Pentecostal religious beliefs. *See Singh v. INS*, 134 F.3d 962, 966 (9th Cir. 1988). Although Petitioner experienced acts of violence while in her country of origin, she failed to show that these acts of violence, if rising to the level of persecution, were “on account of” her religion. *INS v. Elias-Zacarias*, 502 U.S. 478, 482-83 (1992).

2. We decline to consider Petitioner's Convention Against Torture (CAT)

¹ Pavel Sergeyevich Akinshin is the minor child of Akinshina and his asylum claim is entirely derivative of his mother's claims for relief. See 8 U.S.C. § 1158(b)(3) (1999).

claim because she failed to exhaust her administrative remedies. Following the immigration judge's finding that Petitioner had not presented evidence to support her CAT claim, Petitioner failed to pursue the appeal of the CAT claim before the BIA. Hence, this court lacks jurisdiction to consider Petitioner's CAT claim.

Zhang v. Ashcroft, 388 F.3d 713, 721 (9th Cir. 2004) (per curiam).

PETITION DENIED.